



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

[www.deq.virginia.gov](http://www.deq.virginia.gov)

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

## **STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO VANE LINE BUNKERING, INC.**

### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-34.18, between the State Water Control Board and Vane Line Bunkering, Inc., for the purpose of resolving certain violations of environmental law and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "VLB" means Vane Line Bunkering, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. VLB owns and operates a marine transportation company in Baltimore, Maryland.
2. On May 8, 2005, VLB transported a barge of home heating fuel when it ran aground on an uncharted obstruction in the navigation channel, releasing diesel fuel into the James River in the vicinity of Osborne Landing, in Henrico County.
3. The VLB vessel deployed a boom to contain the spill and Henrico County Hazmat and the U.S. coast Guard provided additional booms and assistance.
4. DEQ was notified on May 8, 2005, at 12:15 and arrived at the scene to meet Henrico Fire Department at 1:15. DEQ responded to the spill by providing personnel and a boat and other equipment necessary to monitor environmental impacts and provide technical assistance to the diesel fuel cleanup in the James River.
5. On May 8, 2005, VLB hired four cleanup contractors to begin spill remediation. After pumping the remaining fuel off of the barge it was determined that approximately 24,000 gallons of fuel was lost to the environment. About 10,800 gallons was recovered by vacuuming and skimming.
6. The Department held a meeting with VLB on June 14, 2005, to discuss the May 8 fuel discharge.

### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-34.20, orders VLB, and VLB voluntary agrees to pay a civil charge of \$61,700 within 30 days of the effective date of the Order in settlement of the alleged violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for VLB. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

## **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of VLB, for good cause shown by VLB, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to VLB by DEQ on May 27, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, VLB admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. VLB consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. VLB declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by VLB to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. VLB shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. VLB shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. VLB shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have

occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which VLB intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and VLB. Notwithstanding the foregoing, VLB agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. VLB petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to VLB.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve VLB from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, VLB voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 16, 2005.

  
David K. Paylor, Director  
Department of Environmental Quality

VLB voluntarily agrees to the issuance of this Order.

By: Donna K. Kuemmer

Date: 12/7/05

STATE OF MARYLAND  
~~Commonwealth of Virginia~~

City/County of BALTIMORE

The foregoing document was signed and acknowledged before me this 7<sup>th</sup> day of  
DECEMBER, 2005, by DONNA K. KUEMMER, who is  
(name)

CFO of VLB, on behalf of the Corporation.  
(title)

Judith P. Robbins  
Notary Public JUDITH P. ROBBINS

My commission expires: JULY 1, 2006